

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DERRICK L. SMITH,

Plaintiff,

ORDER

13-cv-591-wmc

PAUL MERGENDAHL, *et al.*,

Defendants.

Plaintiff Derrick L. Smith, an inmate being held at the Marathon County Jail in Wausau, Wisconsin, has filed a proposed civil action under 42 U.S.C. § 1983. With the exception of habeas corpus proceedings, the fee for civil actions filed after May 1, 2013 is \$400 unless a litigant qualifies as indigent under the federal *in forma pauperis* statute, 28 U.S.C. § 1915, in which case the fee is \$350. Plaintiff has neither paid the filing fee nor requested leave to proceed *in forma pauperis*. For this case to proceed, plaintiff must pay the \$400 filing fee or submit a properly supported motion for leave to proceed *in forma pauperis* no later than September 16, 2013.

In the event that he requests leave to proceed *in forma pauperis*, plaintiff is advised that he must comply with the Prisoner Litigation Reform Act (PLRA), 28 U.S.C. § 1915(b), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. The federal *in forma pauperis* statute does not permit a court to waive a prisoner's entire obligation to pay filing fees, but it does allow a qualifying individual to proceed without prepaying some or all of the filing fee. To determine whether plaintiff qualifies as indigent, any motion for leave to proceed *in forma pauperis* must include a

certified copy of his inmate trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the date of his complaint. 28 U.S.C. § 1915(a)(2). In his complaint, plaintiff states that he was released from the Columbia Correctional Institution on August 6, 2013. Since plaintiff has been at the Marathon County Jail for such a short time, he must write to the Columbia Correctional Institution to obtain a copy of a six-month trust fund account statement that covers the six-month period preceding the filing of his complaint.

ORDER

IT IS ORDERED that:

1. No later than September 16, 2013, plaintiff Derrick L. Smith shall pay the \$400 filing fee or submit a properly supported motion for leave to proceed *in forma pauperis* together with a certified copy of his inmate trust fund account statement for the six-month period from the date of the complaint (August 14, 2013 through at least February 14, 2013).
2. **Plaintiff is advised that, if he fails to comply as directed or show cause of his failure to do so, the court will assume that he does not wish to proceed and this case will be dismissed without further notice pursuant to Fed. R. Civ. P. 41(a).**

Entered this 26th day of August, 2013.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge